

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 969 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5: No

-----  
K L JAMALIA , FILARIA INSPECOR

Versus

ASHOKBHAI CHATURBHUJA

-----  
Appearance:

MR MRUGEN PUROHIT for MR PRASHANT G DESAI for Petitioner  
MR RR MARSHALL for Respondent No. 1  
MR PB BHATT, APP, for Respondent No. 4

-----  
CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 11/08/98

ORAL JUDGEMENT

This appeal is directed against the judgment delivered by the learned JMFC, Surat, in Municipal Case No. 675/86 dated 26.8.87. By virtue of the said judgment and order, the present respondents were acquitted in proceedings initiated against them for committing breach of the provisions of rule

15(1)(A)(B)(6)(2)(3) of Chapter 14 and rule 2(B) of Chapter 19 of the B.P.M.C. Act.

2. It was alleged against the accused that they had released filthy water from their factory and the water so released had been accumulated in the vicinity of the factory owned by the accused respondents and as a result of accumulation of filthy water, there was pollution and the filthy water had become a breeding place for mosquitoes. It is the case of the appellant corporation that in spite of notice given to the accused respondents, they did not stop releasing filthy water and therefore a complaint was filed against the accused.

3. After hearing the concerned advocates, the trial court has acquitted the accused mainly on the ground that it was not proved that the filthy water was released from the premises belonging to the accused respondents and offences referred to in the notice which were alleged to have been committed by the respondent accused were not proved.

4. Learned Advocate Shri Mrugen Purohit appearing for learned advocate Shri P.G. Desai for the appellant has submitted that the trial court has erred in appreciation of evidence and in coming to the above-referred conclusion. It has been submitted by him that in fact fine of Rs. 70 was imposed upon the accused in the past as they had released filthy water and had created nuisance. He has drawn my attention to some of the exhibits to show that in fact fine was imposed upon the respondents accused. On the other hand, learned advocate Shri R.R. Marshal for the respondents accused has supported the reasoning given by the learned magistrate while acquitting the accused. It has been submitted by him that in fact no evidence was adduced before the trial court to show that fine was imposed upon the accused in the past for releasing filthy water. Moreover, it has also been submitted by him that there was no evidence to the effect that filthy water which had been accumulated near the premises of the accused had been released by the accused. He has submitted that in fact the filthy water had accumulated because drainage line of the appellant corporation had been choked up. He has drawn my attention to certain correspondence pertaining to choking up of drainage line of the appellant corporation which was in the vicinity of the factory belonging to the accused.

5. I have gone through the relevant record and have heard the learned advocates. Upon perusal of the record,

I do not see any reason to interfere with the order passed by the learned magistrate dated 26.8.87. The learned magistrate appears to be right when he has observed that there was some evidence regarding choking up of drainage lines carrying filthy water and due to the said choking up there was overflowing of filthy water into the drainage system. In the circumstances, it cannot be said that the accused are guilty of offences alleged against them. It also appears from the record that sufficient evidence was not led to show that the accused were in fact penalised in the past for commission of similar offences. Thus, the trial court appears to be right in acquitting the accused.

6. In the circumstances, I do not see any reason to interfere with the order passed by the learned magistrate and therefore this appeal is dismissed.

-----